

to the certifying agent and the State organic certification program (if applicable), and such plan shall be reviewed by the certifying agent who shall determine if such plan meets the requirements of the programs.

(b) Crop production farm plan

(1) Soil fertility

An organic plan shall contain provisions designed to foster soil fertility, primarily through the management of the organic content of the soil through proper tillage, crop rotation, and manuring.

(2) Manuring

(A) Inclusion in organic plan

An organic plan shall contain terms and conditions that regulate the application of manure to crops.

(B) Application of manure

Such organic plan may provide for the application of raw manure only to—

- (i) any green manure crop;
- (ii) any perennial crop;
- (iii) any crop not for human consumption; and
- (iv) any crop for human consumption, if such crop is harvested after a reasonable period of time determined by the certifying agent to ensure the safety of such crop, after the most recent application of raw manure, but in no event shall such period be less than 60 days after such application.

(C) Contamination by manure

Such organic plan shall prohibit raw manure from being applied to any crop in a way that significantly contributes to water contamination by nitrates or bacteria.

(c) Livestock plan

An organic livestock plan shall contain provisions designed to foster the organic production of livestock consistent with the purposes of this chapter.

(d) Mixed crop livestock production

An organic plan may encompass both the crop production and livestock production requirements in subsections (b) and (c) of this section if both activities are conducted by the same producer.

(e) Handling plan

An organic handling plan shall contain provisions designed to ensure that agricultural products that are sold or labeled as organically produced are produced and handled in a manner that is consistent with the purposes of this chapter.

(f) Management of wild crops

An organic plan for the harvesting of wild crops shall—

- (1) designate the area from which the wild crop will be gathered or harvested;
- (2) include a 3 year history of the management of the area showing that no prohibited substances have been applied;
- (3) include a plan for the harvesting or gathering of the wild crops assuring that such harvesting or gathering will not be destructive to

the environment and will sustain the growth and production of the wild crop; and

- (4) include provisions that no prohibited substances will be applied by the producer.

(g) Limitation on content of plan

An organic plan shall not include any production or handling practices that are inconsistent with this chapter.

(Pub. L. 101-624, title XXI, §2114, Nov. 28, 1990, 104 Stat. 3943.)

§ 6514. Accreditation program

(a) In general

The Secretary shall establish and implement a program to accredit a governing State official, and any private person, that meets the requirements of this section as a certifying agent for the purpose of certifying a farm or handling operation as a certified organic farm or handling operation.

(b) Requirements

To be accredited as a certifying agent under this section, a governing State official or private person shall—

- (1) prepare and submit, to the Secretary, an application for such accreditation;
- (2) have sufficient expertise in organic farming and handling techniques as determined by the Secretary; and
- (3) comply with the requirements of this section and section 6515 of this title.

(c) Duration of designation

An accreditation made under this section shall be for a period of not to exceed 5 years, as determined appropriate by the Secretary, and may be renewed.

(Pub. L. 101-624, title XXI, §2115, Nov. 28, 1990, 104 Stat. 3944.)

§ 6515. Requirements of certifying agents

(a) Ability to implement requirements

To be accredited as a certifying agent under section 6514 of this title, a governing State official or a person shall be able to fully implement the applicable organic certification program established under this chapter.

(b) Inspectors

Any certifying agent shall employ a sufficient number of inspectors to implement the applicable organic certification program established under this chapter, as determined by the Secretary.

(c) Recordkeeping

(1) Maintenance of records

Any certifying agent shall maintain all records concerning its activities under this chapter for a period of not less than 10 years.

(2) Access for Secretary

Any certifying agent shall allow representatives of the Secretary and the governing State official access to any and all records concerning the certifying agent's activities under this chapter.

(3) Transference of records

If any private person that was certified under this chapter is dissolved or loses its ac-

creditation, all records or copies of records concerning such person's activities under this chapter shall be transferred to the Secretary and made available to the applicable governing State official.

(d) Agreement

Any certifying agent shall enter into an agreement with the Secretary under which such agent shall—

- (1) agree to carry out the provisions of this chapter; and
- (2) agree to such other terms and conditions as the Secretary determines appropriate.

(e) Private certifying agent agreement

Any certifying agent that is a private person shall, in addition to the agreement required in subsection (d) of this section—

- (1) agree to hold the Secretary harmless for any failure on the part of the certifying agent to carry out the provisions of this chapter; and
- (2) furnish reasonable security, in an amount determined by the Secretary, for the purpose of protecting the rights of participants in the applicable organic certification program established under this chapter.

(f) Compliance with program

Any certifying agent shall fully comply with the terms and conditions of the applicable organic certification program implemented under this chapter.

(g) Confidentiality

Except as provided in section 6506(a)(9) of this title, any certifying agent shall maintain strict confidentiality with respect to its clients under the applicable organic certification program and may not disclose to third parties (with the exception of the Secretary or the applicable governing State official) any business related information concerning such client obtained while implementing this chapter.

(h) Conflict of interest

Any certifying agent shall not—

- (1) carry out any inspections of any operation in which such certifying agent, or employee of such certifying agent has, or has had, a commercial interest, including the provision of consultancy services;
- (2) accept payment, gifts, or favors of any kind from the business inspected other than prescribed fees; or
- (3) provide advice concerning organic practices or techniques for a fee, other than fees established under such program.

(i) Administrator

A certifying agent that is a private person shall nominate the individual who controls the day-to-day operation of the agent.

(j) Loss of accreditation

(1) Noncompliance

If the Secretary or the governing State official (if applicable) determines that a certifying agent is not properly adhering to the provisions of this chapter, the Secretary or such governing State official may suspend such certifying agent's accreditation.

(2) Effect on certified operations

If the accreditation of a certifying agent is suspended under paragraph (1), the Secretary

or the governing State official (if applicable) shall promptly determine whether farming or handling operations certified by such certifying agent may retain their organic certification.

(Pub. L. 101-624, title XXI, §2116, Nov. 28, 1990, 104 Stat. 3944; Pub. L. 102-237, title X, §1001(5), Dec. 13, 1991, 105 Stat. 1893.)

AMENDMENTS

1991—Subsec. (j)(2). Pub. L. 102-237 substituted "such certifying" for "certifying such".

§ 6516. Peer review of certifying agents

(a) Peer review

In determining whether to approve an application for accreditation submitted under section 6514 of this title, the Secretary shall consider a report concerning such applicant that shall be prepared by a peer review panel established under subsection (b) of this section.

(b) Peer review panel

To assist the Secretary in evaluating applications under section 6514 of this title, the Secretary may establish a panel of not less than three persons who have expertise in organic farming and handling methods, to evaluate the State governing official or private person that is seeking accreditation as a certifying agent under such section. Not less than two members of such panel shall be persons who are not employees of the Department of Agriculture or of the applicable State government.

(Pub. L. 101-624, title XXI, §2117, Nov. 28, 1990, 104 Stat. 3945.)

§ 6517. National List

(a) In general

The Secretary shall establish a National List of approved and prohibited substances that shall be included in the standards for organic production and handling established under this chapter in order for such products to be sold or labeled as organically produced under this chapter.

(b) Content of list

The list established under subsection (a) of this section shall contain an itemization, by specific use or application, of each synthetic substance permitted under subsection (c)(1) of this section or each natural substance prohibited under subsection (c)(2) of this section.

(c) Guidelines for prohibitions or exemptions

(1) Exemption for prohibited substances in organic production and handling operations

The National List may provide for the use of substances in an organic farming or handling operation that are otherwise prohibited under this chapter only if—

(A) the Secretary determines, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, that the use of such substances—

- (i) would not be harmful to human health or the environment;
- (ii) is necessary to the production or handling of the agricultural product be-